

Pilar for her lifetime, and is owned subject to this life estate, by the defendant Alperto.

(b) The half to the left of said boundary line is owned by the plaintiff Benido Amor.

(c) Each of the parties mentioned above is a resident of Uh Municipality in the Ponape District, and the rights of each in the land are with the benefit of and subject to all the rights and obligations imposed by the system of private land ownership set forth in the standard form of title document issued by the German Government in Ponape in 1912, as heretofore or hereafter modified by law.

2. This judgment shall not affect any rights of way there may be over the land in question.

3. No costs are assessed against any party.

PERNEL MANASA, Plaintiff

v.

WELERI JOHN, Defendant

Civil Action No. 127

Trial Division of the High Court

Ponape District

June 2, 1959

Action to determine ownership of land in Metalanim Municipality, in which plaintiff and his wife, sister of deceased, claim land under oral will and by inheritance, in opposition to defendant to whom *Nanmarki* had transferred title. The Trial Division of the High Court, Chief Justice E. P. Furber, held that land belonged to plaintiff and that *Nanmarki* was without power to order transfer to defendant.

Ponape Land Law—German Land Title

Since German land reform of 1912, *Nanmarki* does not have power to cut off rights of heir of landowner or rights of transferee of landowner and then proceed to give land to another as reward or compensation for care rendered deceased.

FURBER, *Chief Justice*

FINDINGS OF FACT

1. Esiel directed orally that on his death the land in question should go to his sister Trise, and so informed his oldest adopted son Iakob (also known as Ersun), who is the true son of Trise and has consistently tried to carry this direction into effect.

2. Esiel never gave any direction that the land should pass to Weleri John, and had provided him with other land.

3. Esiel never made any written will in accordance with the requirements of Ponape District Order No. 9-57.

4. The *Nanmwarki* of Metalanim at one time, some months after Esiel's death, sent a written statement to the Ponape District Land Office, stating that Weleri John should have the land, but when this was returned for further signatures, the *Nanmwarki* is not shown to have taken any further action on the matter.

CONCLUSIONS OF LAW

1. This action involves the ownership of a part of a larger tract of land on Ponape Island, the whole of which tract was covered by the standard form of German title document issued by the German Administration on Ponape beginning in 1912. The part in question had admittedly been put in the name of Esiel at the time of the Japanese land survey of about 1941 to 1942. Esiel died October 30, 1957, never having had any true children by blood.

2. The only question of law of special note in this particular case is whether, under the land law introduced on Ponape Island by the German Administration in 1912, as amended first by the Japanese Administration and later by Ponape District Order No. 8-57, a *Nanmwarki* could, as a matter of his own choice without any action by the

owner of the land before his decease, cut off both the one who would be the heir under Ponape District Order No. 8-57, and also the one to whom the deceased owner had endeavored orally to transfer the land, and could proceed to give the land to another person supposedly as reward or compensation for care rendered the deceased. It appears clear to the court that whatever traditional power the *Nanmwarki* may have had to make such an award out of land in which a deceased person had had an interest was cut off by the German Land Reform of 1912, and that the exercise of any such power is inconsistent with the system of private land ownership then introduced, and as amended to date. The court therefore holds that whatever designation of defendant Weleri John as owner the *Nanmwarki* may have intended was of no legal effect.

JUDGMENT

It is ordered, adjudged, and decreed as follows:—

1. As between the parties, those for whom they claim, and all persons claiming under them:—

(a) The defendant Weleri John who lives in the Ohwa Section of Madolenihmw (sometimes spelled Metalanim) Municipality, has no rights of ownership in the part of Nanpailong No. 151, which was put in the name of Esiel at the time of the Japanese land survey of about 1941 to 1942, and is shown as Lot No. 396 on map No. M-7-P on file in the office of the Clerk of Courts for the Ponape District. This land is located in the Mesisou Section of Madolenihmw Municipality, Ponape District.

(b) The plaintiff Pernel Manasa and his wife Trise (for whom the plaintiff makes claim in this action), who both live in the Mesisou Section of Madolenihmw Municipality, are rightfully in possession of the land in question.

2. No determination is made as to whether the land in question belongs to the plaintiff Pernel Manasa, his wife

Trise, or Trise's son Iakob John (otherwise known as Ersun), who lives part of the time in Madolenihmw Municipality and part of the time in Net Municipality, and is not a party to this action. They appear to be in full agreement as to the use of the land and have requested no determination as between themselves.

3. This judgment shall not affect any rights of way there may be over the land in question.

4. No costs are assessed against either party.

INOSKE YAMADA, Plaintiff

v.

LUISA YAMADA, Defendant

Civil Action No. 140

Trial Division of the High Court

Ponape District

June 2, 1959

Petitioner brought action for divorce on grounds of cruel treatment, neglect, and personal indignities. The Trial Division of the High Court, Chief Justice E. P. Furber, held that divorce would be denied as both parties were at fault, and since fault of plaintiff was greater than that of defendant, plaintiff was not entitled to divorce.

1. Domestic Relations—Divorce—Custom

Although Trust Territory law recognizes divorce under local custom, courts should have nothing to do with original granting of customary divorce. (T.T.C., Sec. 714)

2. Domestic Relations—Divorce

Principles of law contained in Trust Territory decisions regarding divorce apply only to cases of divorce under Code.

3. Domestic Relations—Divorce—Custom

Trust Territory Code provisions regarding divorce indicate policy of making divorces available in accordance with liberal or tolerant modern view prevailing in some states in United States.

4. Domestic Relations—Divorce

Trust Territory Code provisions regarding divorce must be construed in accordance with general principles applied in states having similar statutory provisions.